

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 PETER JAMES CARR,

9 Plaintiff,

10 v.

11 WA STATE HEALTH CARE
AUTHORITY, et al.,

12 Defendants.
13
14

CASE NO. C19-1450-TSZ-MAT

ORDER ON REVIEW OF
MOTION TO APPOINT NEW
JUDGE

15 On November 13, 2019, Plaintiff Carr filed a Motion to Appoint New Judge, which is
16 properly considered as a motion to disqualify the Honorable Mary Alice Theiler in this matter.
17 Dkt. #10. On November 19, 2019, Judge Theiler issued an Order denying Plaintiff's motion and,
18 in accordance with this Court's Local Rules, referring that decision to the Chief Judge for review.
19 Dkt. #11; Local Rules W.D. Wash. LCR 3(f).

20 A judge of the United States shall disqualify herself in any proceeding in which her
21 impartiality "might reasonably be questioned." 28 U.S.C. § 455(a). Federal judges also shall
22 disqualify themselves in circumstances where they have a personal bias or prejudice concerning
23 a party or personal knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C.
24 § 455(b)(1). Pursuant to 28 U.S.C. § 144, "whenever a party to any proceeding in a district court


1 makes and files a timely and sufficient affidavit that the judge before whom the matter is pending
2 has a personal bias or prejudice either against him or in favor of any adverse party, such judge
3 shall proceed no further therein, but another judge shall be assigned to hear such proceeding.”
4 “[A] judge’s prior adverse ruling is not sufficient cause for recusal.” *United States v. Studley*,
5 783 F.2d 934, 939 (9th Cir. 1986); *see also Taylor v. Regents of Univ. of Cal.*, 993 F.2d 710, 712
6 (9th Cir. 1993) (“To warrant recusal, judicial bias must stem from an extrajudicial source.”).

7 On October 21, 2019, the Court issued an Order to Show Cause for why the action should
8 not be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). Dkt. #7. Plaintiff now moves the Court
9 to appoint a new judge on the basis that Judge Theiler has “bias and a conflict of interest in this
10 matter because she was the judge who offered the REPORT AND RECOMMENDATION in my
11 HABEAS CORPUS action” Dkt. #10 at 3. The Report and Recommendation Plaintiff
12 references was issued on April 16, 2018 in a separate civil action. *See* Case No. C17-1326-RAJ,
13 Dkt. #28. Plaintiff states, “I wish this civil rights lawsuit to be separate from my criminal case.
14 This cannot happen with the Honorable Justice Mary Alice Theiler presiding.” Dkt. #10 at 3.

15 Nothing presented in Plaintiff’s Motion convinces the Court that the standards for recusal
16 have been met. It is well-established that prior adverse rulings are not a valid basis for recusal.
17 *See Studley*, 783 F.2d at 939; *see also Taylor*, 993 F.2d at 712. Plaintiff’s allegations of bias and
18 conflict of interest are therefore factually and legally unsupported. Because these unsupported and
19 conclusory allegations are insufficient to demonstrate the appearance of bias or prejudice, the
20 Court finds no evidence upon which to reasonably question Judge Theiler’s impartiality.

21 Accordingly, the Court hereby ORDERS that Judge Theiler’s refusal to recuse herself from
22 this matter is AFFIRMED. The Clerk SHALL provide copies of this order to Plaintiff and to all
23 counsel of record.

1
2 DATED this 9 day of December, 2019.

3
4 

5 RICARDO S. MARTINEZ
6 CHIEF UNITED STATES DISTRICT JUDGE
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24